

# ARKANSAS SUPREME COURT

No. 06-05

NOT DESIGNATED FOR PUBLICATION

GLEN BLAYLOCK  
Appellant

v.

LARRY NORRIS AND STATE OF  
ARKANSAS  
Appellee

Opinion Delivered September 28, 2006

*PRO SE* APPEAL FROM THE CIRCUIT  
COURT OF JEFFERSON COUNTY, CV  
2005-740, HON. ROBERT HOLDEN  
WYATT, JR., JUDGE

AFFIRMED

---

## PER CURIAM

Appellant Glen Blaylock is an inmate incarcerated in the Arkansas Department of Correction. He filed a *pro se* petition for writ of *habeas corpus* under Ark. Code Ann. §§ 16-112-101–16-112-123 (1987) in the county where he is incarcerated, which was denied. Appellant now brings this appeal of the order entered in Jefferson County Circuit Court dismissing his petition.

In 1972, appellant and a codefendant entered guilty pleas to murder in the first-degree in Franklin County Circuit Court. Appellant was sentenced to life imprisonment. His petition for writ of *habeas corpus* asserted actual innocence and raised issues of prosecutorial misconduct and ineffective assistance of counsel, which he simply reasserts on appeal. The circuit court found that appellant had not stated any facts or evidence in support of proper grounds for his claim that he was entitled to issuance of the writ. We must agree that appellant failed to state sufficient grounds for *habeas* relief.

It is well settled that the burden is on the petitioner in a *habeas corpus* petition under section 16-112-103 to establish that the trial court lacked jurisdiction or that the commitment was invalid on its face; otherwise, there is no basis for a finding that a writ of *habeas corpus* should issue. *Young v. Norris*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (February 2, 2006) (*per curiam*). The petitioner must plead either the facial invalidity or the lack of jurisdiction and make a "showing, by affidavit or other evidence, [of] probable cause to believe" he is illegally detained. *See Wallace v. Willock*, 301 Ark. 69, 781 S.W.2d 478 (1989).

Here, appellant's claim of actual innocence is a challenge to the sufficiency of the evidence against him. He challenges the voluntariness of his plea, alleging ineffective assistance of his trial counsel and prosecutorial misconduct, and asserting that evidence only discovered by him some sixteen years ago would have been a consideration in his decision to enter a guilty plea. The grounds for appellant's claims are clearly issues that should have been raised on appeal, if one were available to him, or in a timely petition under Ark. R. Crim. P. 37.1.

A *habeas corpus* proceeding does not afford a prisoner an opportunity to retry his case, and is not a substitute for direct appeal or postconviction relief. *Friend v. Norris*, \_\_\_ Ark. \_\_\_, \_\_\_ S.W.3d \_\_\_ (December 1, 2005) (*per curiam*). Sufficiency of the evidence and irregularities at trial are factual issues that should have been addressed during trial and through a direct appeal. *See id.* Appellant waived his right to trial upon entry of his guilty plea and, with it, any right to appeal, as he did not enter a conditional plea. Ineffective assistance of counsel and challenges to the plea are properly raised in a timely Rule 37.1 proceeding. Appellant's claims pose the type of questions that require the kind of factual inquiry that goes well beyond the facial validity of the commitment and are therefore best left to a postconviction proceeding. *Id.* The circuit court correctly determined that

the issues were not cognizable in a *habeas* proceeding.

None of appellant's claims was sufficient to establish that the commitment was invalid on its face or that the trial court was without jurisdiction. Each of appellant's claims should have been raised in an earlier proceeding. Because appellant failed to state cognizable claims, he did not meet his burden and has failed to show any basis for a finding that a writ of *habeas corpus* should issue. Accordingly, we affirm the circuit court's order dismissing the petition.

Affirmed.